IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. 1184 of 2003

The State of Maharashtra .. Appellant
V/s.
Shantaram Kashiram Kolge & Ors. .. Respondents

Mr. D.P. Adsule, APP. for the Appellant.
Mr. S.M. Railkar for the Respondents.

CORAM : V.M. KANADE, J.
DATED : 09.09.2004.

P.C.:-

1. Heard the learned Assistant Public Prosecutor appearing on behalf of the State and the learned counsel appearing on behalf of the Respondents. The Appellant State is challenging the judgment and order passed by the Judicial Magistrate First Class, Chiplun dated 1.7.2003 in Regular Criminal Case No. 112/1995.

2. The Respondent was charged for having committed an offence punishable under section 325, 323, 504, 506 r/w. section 34 of the Indian Penal Code. Prosecution case is that the complainant was cultivating his land and on 30.5.1995, the accused came there and assaulted him with fist blow on right eye as a result of which he suffered injuries. In the Trial Court, prosecution examined six witnesses, out of which, PW 1 is the complainant, who was assaulted by the accused. PW 2, 3 and 4 were the other eye witnesses. Prosecution also relied on the medical certificate as also private complaint filed by the complainant.

3. The Trial Court after appreciating the evidence, has observed in paragraph 12 of the judgment that there is a discrepancy in the evidence of three eye witness, as they have given inconsistent version recording the different years of the incident as also the time, when the incident took place. PW 1 has stated that the incident took place in the year 1995 at about 3.00 pm. PW 2 has stated that the incident took place at about 12 years before his evidence was recorded and PW 5 has stated that the incident took place 7 years at about 6.00 pm. The Trial Court, has therefore, observed that this fact doubts the prosecution case, the Trial Court has further observed that two doctors treated the complainant namely, Dr. Patankar and Dr. Joshi, were not examined by the prosecution. The Trial Court further has come to the conclusion that the remand was not taken by the Police to investigate the offence and therefore, the present chargesheet could not be accepted. Reasoning given by the Trial Court cannot be faulted. Leave refused. Appeal, therefore is dismissed.

(V.M. KANADE, J.)